

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1416

In the Matter of

EMBARQ CORPORATION and  
CENTURYTEL, INC.

Joint Application for Approval of Merger  
between the two companies and their  
regulated subsidiaries.

ORDER

DISPOSITION: APPLICATION GRANTED WITH CONDITIONS

**I. INTRODUCTION**

In this order, we grant the Application for Approval of Merger between CenturyTel, Inc. (CenturyTel), and Embarq Corporation (Embarq). Our approval is conditioned upon compliance with the requirements set forth in Appendix B to this order relating to Commission access to financial information, reasonableness review, notification of changes, and specific post-merger commitments and responsibilities of the applicants.

**II. PROCEDURAL HISTORY**

CenturyTel and Embarq (Joint Applicants) filed the Joint Application for Approval of Merger between the two companies and their regulated subsidiaries on January 30, 2009. General Protective Order No. 09-043 was entered on February 3, 2009. A Notice of Intervention was timely filed by the Citizens' Utility Board (CUB), and petitions to intervene were timely filed by the City of Lincoln City (Lincoln City) and David Burstein (Burstein).

A prehearing conference was held before an Administrative Law Judge (ALJ) on March 6, 2009, with appearances by the Joint Applicants, CUB, Lincoln City, the Oregon Telecommunications Association, and the Commission staff (Staff). A schedule was adopted, and pursuant to that schedule, Joint Applicants filed a March 10, 2009, letter commenting on the Lincoln City Petition and a March 13, 2009, Opposition to the Burstein Petition.

By ALJ ruling of March 12, 2009, the Lincoln City intervention was granted in part and denied in part. In that Ruling, the ALJ concluded that Lincoln City had an interest in seeing that the proposed merger would not harm the financial ability of Embarq to serve its customers, and was therefore granted party status. However, questions regarding the specific direction of resources or managerial decisions with respect to the provision of particular services to a particular service area were beyond the scope of the proceeding. On March 12, 2009, Burstein notified the Commission of the withdrawal of his intervention, and by ALJ ruling of March 17, 2009, the Burstein Petition was dismissed and the Joint Applicants' Opposition was dismissed as moot.

A Public Meeting was held on March 24, 2009, at which time Staff presented its report in which it described the transaction and recommended that the merger be approved, subject to a number of conditions. Joint Applicants provided responses to questions posed by the Commissioners at the Public Meeting, but no formal action was taken at that meeting.

On April 10, 2009, based upon the information docketed in the case, including the Staff Report<sup>1</sup>, the ALJ circulated a list of proposed merger conditions to the parties in the proceeding for comment. On April 15, 2009, Joint Applicants filed the only comments on the proposed conditions.

### III. DISCUSSION

Each of the applicants has wholly-owned subsidiaries that provide local exchange and interexchange telephone service in Oregon. Embarq is the ultimate parent company of incumbent local exchange carrier (ILEC) United Telephone Company of the Northwest, d/b/a Embarq (UTNW). CenturyTel is the ultimate parent company of ILECs CenturyTel of Oregon, Inc., and CenturyTel of Eastern Oregon, Inc. Each of the subsidiary companies holds the appropriate certificates of public convenience and necessity for the provision of local exchange service within their respectively designated Oregon service areas.

Embarq is a publicly traded holding company with incumbent local exchange operations in 18 states. CenturyTel is a publicly traded holding company with incumbent local exchange operations in 25 states. The new combined entity will operate in 33 states.

The Application was submitted pursuant to ORS 759.375 and 795.380 and OAR 860-027-0025, while the Joint Applicants noted that the transaction was between two non-Oregon corporations, and there was uncertainty regarding the Commission's jurisdiction.<sup>2</sup>

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<sup>1</sup> Appendix A to this Order.

<sup>2</sup> Application at 1, fn. 1.

The merger transaction<sup>3</sup> may be briefly described as follows. The Applicants and Cajun Acquisition Company (CAC)<sup>4</sup> entered into an Agreement and Plan of Merger as of October 26, 2008. Under the terms of the Agreement, although UTNW will remain a subsidiary of Embarq, Embarq will merge with CAC and become a direct wholly-owned subsidiary of CenturyTel. Upon consummation of the merger, CenturyTel will become the parent company of the three Oregon ILECs noted above. All three ILECs' identities as certificate holders and service providers remain unchanged.

The Joint Applicants will continue to have the requisite managerial, technical, and financial capability to provide services to customers, and end-user customers will continue to receive service from the same ILEC and at the same respective rates, terms, and conditions immediately prior to the transaction. The transaction will be completed through a stock-for-stock transfer, and there will be no incremental debt associated with the transaction.

The Commission must apply the "in the public interest, no harm" standard when considering whether to approve this transaction.<sup>5</sup> Although Joint Applicants stated a number of benefits relative to the transaction,<sup>6</sup> as noted above, Staff concluded that additional conditions were necessary in order for the transaction to meet the standard for Commission approval and made certain recommendations to which the Joint Applicants submitted comments in reply.

**The List of Conditions.** The list of conditions circulated by the ALJ for further comment fall into two general areas; they can be broadly categorized as information transparency and continuity of behavior. Although these conditions are described in abbreviated form below, the conditions we finally adopt in this order, and make an integral part hereof, are set forth in Appendix B.

Information transparency conditions include Commission access to a wide variety of data and records, the right to review the reasonableness of all financial aspects of the transaction in future rate cases or other proceedings, and the requirement that the Commission be notified of and have the opportunity to review any present or planned changes to the transaction. The Commission must also be timely notified of organizational structure changes and significant impairments of goodwill as they occur and receive semiannual reports over two years regarding the impact of the merger on operations and finances.

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<sup>3</sup> The Merger Agreement is a public document included with the joint proxy statement of CenturyTel and Embarq.

<sup>4</sup> CAC is a direct wholly-owned subsidiary of CenturyTel created to effectuate the transaction.

<sup>5</sup> See Order No. 95-526 involving a transaction under ORS 759.375(1)(c) and ORS 759.380. This is a lesser standard than the "net benefits" test employed under ORS 757.511 for energy utility acquisitions.

<sup>6</sup> See Appendix B to this Order, Staff Report at 6-7 for a summary description.

The conditions relating to continuity of behavior are more varied and extensive. They include maintaining ILEC organizational structure, customer relationships, rates and tariffs, financial reporting, service quality reporting, and competitive provider certificates. Changes to rates, rules, and regulations must be pursuant to filing a rate application based on the regulated utility rate base.

CenturyTel, as the surviving entity, must also commit to (1) not advocate a higher cost of capital than it would have absent the merger, (2) not seek recovery of merger-related costs, (3) honor existing agreements with other carriers and customers, (4) observe certain limits on payments of dividends, (5) not pledge assets without prior Commission approval, (6) hold customers harmless for increases in management costs arising out of the merger, (7) comply with all affiliated interest statutes and regulations, and (8) accept in Oregon such other commitments as may be adopted in other states (*i.e.*, a “most favored state” provision). Commitments (1), (2), (4), and (6) listed above would remain in effect until waived by the Commission, and the Applicant’s could not seek a waiver prior to five years from the date of this order.

**Joint Applicants’ Comments.** Several of the ALJ-circulated conditions elicited comment from the Joint Applicants. With respect to commitment (1), Joint Applicants propose a three-year, rather than five-year limit on advocating a higher cost of capital. With respect to commitment (2), they propose that the condition be clarified to state that it only applies to “intrastate regulated rate proceedings,” and likewise be limited to a three-year period. With respect to commitment (4), the Joint Applicants seek a revision to prevent what it believes to be an unwarranted restriction on dividends without a triggering event and proposed ameliorating language.<sup>7</sup>

The Joint Applicants also oppose the “most favored state” provision in commitment (8), noting that customers have already been given protections under other Staff recommendations to which they did not object and that the Commission may consider in any order it issues. Furthermore, Joint Applicants contend that it must be the Commission that initiates an amendment process and provide Joint Applicants with an opportunity to be heard. The “most favored state” requirement puts the burden of initiating the amendment process on the Joint Applicants.<sup>8</sup> The Joint Applicants propose additional language in the event the requirement is adopted.<sup>9</sup>

Joint Applicants also opine that the five-year limitation on seeking waivers is longer than necessary and that three years should suffice.

Finally, the Joint Applicants assert that the semiannual reports over two years regarding the impact of the merger on operations and finances provide far more information

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<sup>7</sup> Comments of Applicants on Proposed Conditions at 5-7.

<sup>8</sup> *Id.* at 11.

<sup>9</sup> *Id.* at 12-13.

than the Commission needs and that service quality rules and ability to review rates and capture costs savings in the process provide all necessary tools.<sup>10</sup>

#### IV. ANALYSIS AND OPINION

**Jurisdiction.** As a preliminary matter, we address the issue of our jurisdiction to review the merger between two non-Oregon corporations. There are two statutes that most clearly apply to provide the Commission authority to review and approve a merger of this nature. First, ORS 759.375 provides, in relevant part:

(1) A telecommunications utility doing business in Oregon shall not, without first obtaining the \* \* \* Commission's approval of such transaction:

\* \* \* \* \*

(c) *By any means whatsoever, directly or indirectly*, merge or consolidate any of its lines, plant, system or other property whatsoever, or franchise or permit to maintain or operate any telecommunications utility property, or perform any service as a telecommunications utility, or any part thereof, with any other \* \* \* telecommunications utility. (Emphasis added.)

The italicized statutory language “*By any means whatsoever, directly or indirectly*” is very broad. Because the transaction begins with three telecommunications utilities (ILECs) owned by two different companies and ends with all three ILECs being owned by a single parent (CenturyTel), we conclude ORS 759.375(1)(c) applies to the merger transaction. In other words, the Embarq ILEC is properly viewed as “indirectly” merging with the CenturyTel ILECs through the stock swap of their respective parent holding companies. Indeed, in other jurisdictions, the companies have asserted that, as a result of the transaction, “indirect control of (the Embarq ILEC) will effectively transfer to CenturyTel, Inc.”

ORS 759.380 is the other applicable statute. This statute provides, in relevant part:

(1) No telecommunications utility shall, *directly or indirectly*, purchase, acquire or become the owner of any of the stocks or bonds or property utilized for utility purposes \* \* \* of any other \* \* \* telecommunications utility unless authorized by the \* \* \* Commission.

(2) Every contract by any telecommunications utility for the purchase, acquisition, assignment or transfer to it of any of the stock of any other telecommunications utility \* \* \* without the

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<sup>10</sup> *Id.*, at 14-15.

approval of the commission shall be void \* \* \*. (Emphasis added).

As with the similar language of ORS 759.375(1)(c), the most reasonable interpretation of the broad “directly or indirectly” language of ORS 759.380 is that the statute applies to the merger transaction. The CenturyTel ILECs are “indirectly” acquiring Embarq’s ILEC’s stock, bonds, or other utility property through the acquisition activities of its parent holding company. We therefore conclude that our approval of the merger of the parent companies is a precondition for the transfer of ownership and control of UTNW.

**Merger Conditions.** Except as discussed below, we generally adopt the conditions circulated to the parties by the ALJ. The Joint Applicants, except as noted and described briefly above, had no comment or objection to the placement of these conditions upon our approval of the merger.

Our discussion of Joint Applicant’s comments and objections and our resolution of those objections under the “no harm” standard are as follows:

The Information Transparency requirements have been clarified to reflect CenturyTel as the reporting authority, and we reduce the reporting requirement to an annual basis. We conclude that such reporting will not be burdensome, since it is limited to substantive activities.

With respect to commitment (1), Joint Applicants propose a three-year, rather than five-year, limit on advocating a higher cost of capital. We decline to adopt the change, as this condition serves to protect customers should a significant negative event occur with the new parent. Any adjustment would need to be developed and supported by non-company parties or Staff. The burden on CenturyTel will not be significant since the company is not required to estimate what the cost of capital would be absent the merger.

Commitment (2) related to CenturyTel not seeking recovery of one-time merger, branding, and transaction costs. Joint Applicants propose that the condition be clarified to state that it only applies to “intrastate regulated rate proceedings,” and likewise be limited to a three-year period before a waiver could be requested. We revise the language of the condition to clarify that it applies to Oregon intrastate regulated rate proceedings. However, we do not adopt the shorter three-year period, as we find the five-year time frame is a more reasonable means to protect customers. We also revise the conditions to clarify that the acquisition premium will be excluded from the operating companies’ utility accounts and not recovered in regulated retail and access rates.

With respect to commitment (4), restriction on dividends, we concur with Joint Applicants in the need to clarify the conditions and adopt their proposed ameliorating language. However, we reject their proposal to limit this condition to three years for the same reasons as those stated above.

Upon review of the comments of the Joint Applicants with respect to commitment (8), we adopt clarifying language including identifying the Commission order prior to any "most favored state" action as a "Final Order." We retain the five-year time frame applicable to this commitment for the same reasons noted above.

**V. ORDER**

IT IS ORDERED that pursuant to ORS 759.375(1)(c) and ORS 759.380:

1. The Joint Application for Approval of Merger between Embarq Corporation and CenturyTel, Inc., and their regulated subsidiaries merger is APPROVED, subject to the conditions set forth in APPENDIX B to this Order.
2. No later than 30 (thirty) days after the completion of the merger, CenturyTel, Inc., shall, by letter to the Director of the Utility Division, certify that the merger has been completed according to its terms and that the company and its regulated Oregon subsidiaries are in compliance with the conditions of this Order as of that date.

Made, entered, and effective           MAY 11 2009          .

  
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**Lee Beyer**  
 Chairman

  
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**Ray Baum**  
 Commissioner



  
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**John Savage**  
 Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

ITEM NO. 1

**PUBLIC UTILITY COMMISSION OF OREGON**  
**STAFF REPORT**  
**PUBLIC MEETING DATE: March 24, 2009**

REGULAR   X   CONSENT \_\_\_\_\_ EFFECTIVE DATE \_\_\_\_\_ NA \_\_\_\_\_

DATE: March 18, 2009

TO: Public Utility Commission

FROM: Michael Dougherty *MD*

THROUGH: *li* Lee Sparling, *A* Marc Hellman, and *BAC* Bryan Conway

SUBJECT: EMBARQ CORPORATION AND CENTURYTEL INC.: (Docket No. UM 1416) Joint Application for Approval of Merger between the two companies and their regulated subsidiaries.

**STAFF RECOMMENDATION:**

Pursuant to ORS 759.375, ORS 759.380, and OAR 860-027-0025, the Commission should approve the merger of Embarq Corporation (Embarq) and CenturyTel, Inc. (collectively, Applicants), resulting in CenturyTel, Inc. becoming the parent company post-merger. This memo will refer to the post-merger parent company as CenturyTel or Company, and to the pre-merger entity as CenturyTel, Inc. Post-merger, CenturyTel will control three incumbent local exchange companies (ILECs) that are currently providing service in Oregon as telecommunications utilities.

These ILECs are United Telephone Company of the Northwest dba Embarq, CenturyTel of Oregon, Inc., and CenturyTel of Eastern Oregon, Inc. This memo will refer to the three ILECs collectively, as the Operating Companies, and when discussed individually, as an Operating Company. My recommendation for approval is subject to the following conditions:

1. CenturyTel shall provide the Commission access to all books of account, as well as, all documents, data, and records that pertain to the merger of the two companies.
2. The Commission reserves the right to review, for reasonableness, all financial aspects of this transaction in any rate proceeding or earnings review under an alternative form of regulation.

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3. The Applicants shall immediately notify the Commission of any substantive changes to the merger terms and conditions from those set forth in their application that: (1) are planned to, or in fact do occur while a Commission order approving the merger is pending, or (2) occur before the merger is closed, but after the Commission issues its order approving the merger. The Applicants must also submit a supplemental application for an amended Commission order in this docket if the merger conditions and terms change as set forth in this condition.
4. CenturyTel shall commit to the following and submit any necessary filings to effect such changes at the appropriate time:
  - a. Post-Merger, CenturyTel will maintain an organizational structure that includes the three regulated ILECs in Oregon (no change from current certification) - United Telephone Company of the Northwest (UTNW) dba Embarq, CenturyTel of Oregon, Inc., and CenturyTel of Eastern Oregon, Inc., both dba CenturyTel (Operating Companies). Any change in certification will require the proper Commission filings.
  - b. The merger will be transparent to the Operating Companies' Oregon regulated retail customers. Immediately after the merger, the carrier name on all applicable retail customer bills will remain unchanged.
  - c. The Company will keep Staff apprised of organizational structure changes as they occur.
  - d. No changes will be made by CenturyTel or its Operating Companies to any rate, rule or regulation currently included in the Operating Companies' access tariff, retail tariff or any retail price list without properly filing a rate application.
  - e. If an Operating Company files a general rate proceeding in Oregon, it will file based upon its own individual regulated telecommunications utility rate base, earnings requirement, rates, etc.
  - f. For the period of three years after the merger, an Operating Company will not advocate in any general rate case proceeding for a higher cost of capital as compared to its cost of capital would have been, using appropriate financial analysis absent the merger.

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- g. For the period of five years after the merger, CenturyTel will not seek recovery of one-time merger, branding, or transaction costs in rate proceedings in Oregon.
- h. All existing agreements with other carriers and customers will continue in force and will be honored by the Company.
- i. Under the current operating structure, financial reporting will remain unchanged, i.e., two Form-Os for the CenturyTel, Inc. ILECs, one Form-O for the Embarq ILEC, one Form-I for the CenturyTel, Inc. ILECs, and one Form-I for the Embarq ILEC.
- j. For the period of three years after the merger, at any time when the condition in subsection 4j(i) exists the Operating Companies of the merged company will limit payments of dividends on common equity distributed to any company (including affiliates and subsidiaries of Century Tel) holding shares of the operating companies in any year to an amount not more than 50% of net income in any prior fiscal year. The Operating Companies will limit payment of dividends on common equity in any quarter to not more than one-fourth of the annual limitation amount.
  - j(i) The average market value of CenturyTel's common equity is less than 50 percent of the book value of CenturyTel's net debt. The average market value of CenturyTel's common equity will be calculated using the average stock price and the average number of fully diluted shares outstanding during the preceding 120 calendar days. As used in this section, "net debt" means total long-term debt less cash. This test will be calculated prior to the determination of each declaration of dividend, whether quarterly, special, or other.
- k. Neither CenturyTel nor the Operating Companies of the merged company will pledge the assets of the Operating Companies to secure any borrowing undertaken by CenturyTel (including affiliates and subsidiaries other than the operating companies) without approval of the Commission.
- l. The acquisition premium paid by CenturyTel Inc. for Embarq Corporation will be excluded from the utility accounts of the operating companies. Further, CenturyTel commits that it will not propose to recover the acquisition premium in Oregon retail and access rates.

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- m. For the period of five years after the merger, CenturyTel will notify the Commission if goodwill impairment (fair value less than book value) exceeds 20 percent in any annual testing year.
- n. Service Quality reporting for the Operating Companies, both content and frequency, will remain unchanged. However, pursuant to Commission Order No. 08-205, the Commission continues to reserve the right to revoke CenturyTel's current reporting exemption should a Staff investigation reveal poor CenturyTel network performance.
- o. For a period of five years, CenturyTel will hold customers harmless for increases in management costs incurred by the operating companies that result from the merger.
- p. The Operating Companies will comply with all applicable Commission statutes and regulations regarding affiliated interest transactions, including timely filings of applications and reports. To the extent affiliated interest changes do occur, the Company will make the appropriate affiliated interest filings pursuant to ORS 759.390.
- q. The certificates of all CenturyTel entities certified as Competitive Providers in Oregon will remain in effect and unchanged as of the date the merger is effective. Thereafter, CenturyTel will report any changes affecting those certificates in compliance with applicable Commission statutes and regulations.

#### DISCUSSION:

The Applicants submitted this application on January 30, 2009. In the application, Applicants requested an expedited timeline in order to allow Applicants to conclude the merger transaction no later than the second quarter of 2009.

The Applicants and Cajun Acquisition Company (CAC)<sup>1</sup> entered into an Agreement and Plan of Merger as of October 26, 2008.<sup>2</sup> Embarq is a publicly traded holding company with incumbent local exchange operations in 18 states, including its Oregon ILEC. CenturyTel, Inc. is a publicly traded holding company with incumbent local exchange

<sup>1</sup> CAC is a direct wholly-owned subsidiary of CenturyTel created to effectuate the transaction.

<sup>2</sup> The Merger Agreement is a public document included with the joint proxy statement of CenturyTel, Inc. and Embarq, [http://media.corportate-ir.net/media\\_files/rol/19/197829/EQ\\_CenturyTelMergerProxy.pdf](http://media.corportate-ir.net/media_files/rol/19/197829/EQ_CenturyTelMergerProxy.pdf)

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operations in 25 states, including CenturyTel of Oregon, Inc. and CenturyTel of Eastern Oregon, Inc., both dba CenturyTel. The new combined entity will operate in 33 states.

As of December 31, 2008, Embarq served approximately 6.5 million local access lines including approximately 60,000 total access lines in Oregon. CenturyTel served approximately 2.1 million local access lines, including approximately 62,000 access lines in Oregon.

Under the terms of the merger agreement (Merger Agreement), Embarq will merge with CAC and become a direct wholly-owned subsidiary of CenturyTel. The transaction will be completed through a stock-for-stock transfer (1.37 shares of CenturyTel, Inc. stock for each share of Embarq stock). There is no incremental debt associated with the transaction. According to Moody's Investment Services, the transaction reflects an enterprise value of approximately \$11.6 billion, including the planned assumption of \$5.8 billion of Embarq's debt. Attachment 1 to this memo shows the Oregon Organizational Structure Diagrams including pre-merger, merger, and post-merger structures.

The terms of the Merger Agreement provide that Embarq's subsidiaries operating in Oregon will remain subsidiaries of Embarq; however, Embarq will become 100 percent owned by CenturyTel. UTNW and the CenturyTel, Inc. ILECs will continue as certified carriers in Oregon and according to the Applicants, will continue to have the requisite managerial, technical, and financial capability to provide services to customers. Immediately following the completion of the transaction, end user customers will continue to receive service from the same local Operating Company and at the same rates, terms, and conditions as immediately prior to the transaction.

Legal Standard for Transaction

According to advice given by the Assistant Attorney General, the Commission should apply an "in the public interest, no harm" standard when considering whether to approve this transaction. This is the standard that the Commission used in its Order No. 95-526 involving a transaction under ORS 759.375(1)(c) and 759.380 (sale of 23 exchanges). This is a *lesser* standard than the "net benefits" standard employed under ORS 757.511 for energy utility acquisitions. Additionally, the Commission has used the "in the public interest, no harm" standard for property sales including telecommunication utility property sales (Commission Order No. 08-617 (UP 247) and Commission Order No. 02-466 (UP 195)).

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Stated Benefits of the Transaction

Although the legal standard for approval does not require the Commission to find "net benefits" from the transaction, the Applicants set forth numerous alleged benefits in their application including:

1. The transaction will result in a combined enterprise that can achieve greater economies of scale and scope than the two companies operating independently.
2. Both companies have investment grade ratings with adequate access to capital. According to the Applicants, the proposed combination will result in a sustainable and vibrant company.
3. The combined businesses will be able to capitalize on their collective knowledge to deliver innovations in technology and product offerings to rural and smaller markets.
4. The post-transaction company is expected to have pro forma revenue in excess of \$8.8 billion, pro forma EBITDA of approximately \$4.2 billion, pro forma leverage of 2.1 times EBITDA, and pro forma free cash flow of approximately \$1.8 billion. According to the Applicants, these attributes will ensure that CenturyTel will have the fiscal stability to pursue necessary strategies and to provide reliable services in the ever-increasingly competitive telecommunications marketplace.

In addition CenturyTel Inc. notes the following additional benefits in its October 27, 2008, press release:

- Enhanced Competitive Position: The combined company is expected to be even more competitive, with significantly increased scale to facilitate economically attractive deployment of growth products and services including expanded IPTV, broadband, and wireless data offers. The two companies have a combined operating presence in 33 states with approximately eight million access lines, two million broadband customers and approximately 400,000 video subscribers.
- Significant Synergy Opportunities: The transaction is expected to generate synergies of approximately \$400 million annually within the first three years of operation. Key drivers of these synergies include reduction of corporate overhead, elimination of duplicate functions, enhanced revenue opportunities, and increased operational efficiencies through the adoption of best practices and capabilities from each company.

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As stated a showing of benefits is not required under an "in the public interest, no harm" standard of the Commission. Staff believes that the focus of the merger is its effect on customers.<sup>3</sup> Although, the benefits listed by the Applicants could potentially benefit customers in the future, Staff is charged to review the application to ensure customers are not harmed by the transaction.

Actions to Date

A Prehearing Conference was conducted on March 6, 2009. At the Prehearing Conference, the Applicants, Staff, Citizen's Utility Board, and the City of Lincoln City (Parties), agreed on a schedule for this docket. As part of the schedule, the Parties, other than staff, had the opportunity to file opening comments on March 17, 2009. Additionally, a settlement conference was conducted on March 20, 2009.

Staff's Review of the Transaction

To ensure that the transaction meets the "in the public interest, no harm" standard, Staff examined the following:

1. Organizational Issues
2. Rates and Reporting Requirements
3. Financial Data
4. Service Quality
5. Affiliated Interest Issues
6. Actions by Other Regulatory Jurisdictions
7. Comments from Parties

Organizational Issues

As previously mentioned, the terms of the Merger Agreement provide that Embarq's subsidiaries operating in Oregon will remain subsidiaries of Embarq; however, Embarq will become 100 percent owned by CenturyTel. UTNW and CenturyTel, Inc. ILECs will continue as certified carriers in Oregon. Ordering condition 4a requires that post-merger, the resulting entity, CenturyTel will still have three regulated telecommunications utilities in Oregon (no change from current licensing) - UTNW, CenturyTel of Oregon, Inc., and CenturyTel of Eastern Oregon, Inc., both dba CenturyTel.

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<sup>3</sup> The role of a Public Utility Commission is to protect customers from unjust exactions resulting from the market control that utilities could exercise without state regulation. The form of business enterprise should be of no consequence to the Commission, as long as the utility obeys regulatory mandates and procedures, does not present conflicts with the interests of Oregon customers, does not expose customers to greater risks of higher costs or lower service quality, and is capable of economically and reliably providing the services offered to customers now and in the future. *Commission Order No. 01-778, page 11.*

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The synergies the Applicant states in its October 27, 2008, press release include reduction of corporate overhead, elimination of duplicate functions, enhanced revenue opportunities, and increased operational efficiencies through the adoption of best practices and capabilities from each company. Although the synergies will occur in corporate functions, the Oregon entities will continue to exist in their current form after the merger is completed and these entities will not change. Ordering condition 4b requires that the carrier name on all applicable retail customer bills will remain unchanged.

According to the Applicants, Embarq employees will not participate immediately in CenturyTel employee benefit and welfare plans at the closing of the merger. As described in the Merger Agreement, dated October 26, 2008, for a period of not less than 12 months following the merger, former Embarq employees who become CenturyTel employees will receive compensation and benefits that are substantially comparable in the aggregate to the compensation and benefits provided prior to the merger. No decision has been made to consolidate Embarq's pension and postretirement plans into the respective CenturyTel, Inc.'s plans.

Ordering condition number 4c requires CenturyTel to apprise Staff of organizational structure changes.

Rates and Reporting Requirements

As stated by the Applicants, the merger will have no effect on the Applicants' Operating Companies' current rates and schedules. CenturyTel ILECs' access tariff is listed in the company's tariff book as PUC OR No. 4 and its retail tariff is listed as PUC OR No. 5. UTNW's access tariff is listed in its tariff book as PUC OR No. 6 and its retail tariff is listed as PUC OR No. 3. Ordering condition 4d requires the Operating Companies to make appropriate filings to the Commission to change any rates or regulations.

Because the merger is designed to be transparent to customers, Ordering condition No. 4e requires that if an Operating Companies files a general rate proceeding, that utility will file based upon its own individual regulated telecommunications utility rate base, earnings requirement, rates, etc.

In addition, Ordering condition 4f requires that for the period of three years after the merger, an Operating Company will not advocate in any general rate case proceeding for a higher cost of capital as compared to what its cost of capital would have been, using appropriate financial analysis absent the merger.

Additionally, Ordering condition 4g requires that for the period of five years after the merger, CenturyTel will not seek recovery of one-time merger, branding, or transaction

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Additionally, Ordering condition 4g requires that for the period of five years after the merger, CenturyTel will not seek recovery of one-time merger, branding, or transaction costs in future rate proceedings in Oregon. Ordering condition 4h requires the Company to make any necessary filings concerning any proposed changes concerning all existing agreements with other carriers, customers, etc.

#### Financial Data

Staff examined numerous financial attributes including pro forma combined balance sheet, pro forma combined statement of income, pre- and post-merger weighted cost of capital, pre- and post-merger debt levels, stock prices, pre-merger earnings per share and other financial data. Based on pro forma financial statements, the merger will result in a financially stronger combined entity than the two existing entities (CenturyTel Inc. and Embarq Corporation). In its review of financial data, Staff did not note any major issues concerning the combined operation; however, the following is highlighted.

#### Cost of Capital

The following highlights the pre- and post-merger cost of capital of the Applicants. The equity return is based on the current interstate authorized return as a proxy.

Cost of Capital - CenturyTel	Percent of capital	Cost	Weighted Cost
Long Term Debt	51.13%	10.08%	5.15%
Preferred Stock	N/A	N/A	0.000%
Common Equity	48.87%	11.25%	5.50%
<b>Total</b>	<b>100.00%</b>		<b>10.65%</b>

Cost of Capital - Embarq	Percent of Capital	Cost	Weighted Cost
Long Term Debt	53.27%	11.58%	6.17%
Preferred Stock	N/A	N/A	0.000%
Common Equity	46.73%	11.25%	5.26%
<b>Total</b>	<b>100.00%</b>		<b>11.43%</b>

Cost of Capital - Combined	Percent of Capital	Cost	Weighted Cost
Long Term Debt	50.27%	11.03%	5.54%
Preferred Stock	N/A	N/A	0.000%
Common Equity	49.73%	11.25%	5.60%
<b>Total</b>	<b>100.00%</b>		<b>11.14%</b>

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As can be seen from the above table, the resulting structure results in an approximate 50/50 split between debt and equity. As previously mentioned, no incremental debt is being issued for this transaction.

#### Debt Ratings

The following are the current debt ratings of the Applicants.

CenturyTel: Moody's - Baa2 – Under Review  
 S&P - BBB- Stable  
 Fitch - BBB- Stable

Embarq: Moody's – Baa3 with Positive Outlook  
 S&P – BBB- with Stable Outlook  
 Fitch – BBB- with Stable Outlook

The above ratings are minimal investment grade. The Applicants anticipate having post-transaction financial metrics consistent with those of companies that have been rated "investment grade" by major ratings agencies. In an October 27, 2008, Bulletin, Standard & Poor's stated:

The combined company is not expected to have a materially different business or financial risk profile than those of the two stand-alone companies. The combined company will modestly benefit from greater scale, solid net free cash flow generation, healthy margins, and moderate pro forma leverage of about 2.3x. This figure excludes about \$300 million of potential operating cost synergies. Still, we remain concerned about the ongoing access-line losses at both companies, which totaled 6% at CenturyTel and 8.6% at Embarq as of the 2008 third quarter, and the potential for future debt-financed acquisitions and/or shareholder-friendly initiatives. A significant acceleration of access-line losses and integration issues could prompt a revision of the outlook to negative.

On October 27, 2008, Fitch Ratings affirmed the long-term Issuer Default Rating of both CenturyTel and Embarq at BBB-. Fitch also notes that CenturyTel intends to maintain investment grade ratings after the close of the transaction; and that risk is relatively low based on industry experience. In a March 6, 2009, update on CenturyTel, Inc., Fitch notes that *"The merger did not trigger other change-of-control provisions in the debt of either company."*

Fitch generally views leverage of 3.0 times or below and a dividend payout of free cash flow no greater than 55 percent as being the threshold for an investment-grade rating

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for a rural local exchange carrier with flat-growth prospects and limited competitive pressure. Fitch believes that the post-merger company will operate within these measures in the near future.<sup>4</sup>

Moody's in a March 3, 2008, Credit Opinion stated:

"CenturyTel's ratings reflects its sizeable subscriber base, moderate leverage, predictable cash generating capabilities and our expectations that the company's management will maintain healthy liquidity and a capital structure that is consistent with maintaining an investment grade rating.

In the near term, we expect that access line losses amid increasing competition from wireless service providers and cable companies will continue to pressure revenues. That said, the company's ability to cut costs should enable it to maintain healthy cash flows over the next couple of years."

#### Long-term Debt

The pro forma statements and responses to Staff's data requests indicate that the combined operations long-term debt will decrease post-merger. The following table highlights pre- and post-merger long-term debt.

	<b>CenturyTel</b>	<b>Embarq</b>	<b>Combined</b>
2007	\$212,217,000	\$432,000,000	\$644,217,000
2008	\$202,217,000	\$405,000,000	\$607,217,000
2009			\$591,000,000
2010			\$575,000,000

As the above table indicates, debt level of the combined company is expected to decrease from pre-merger levels. As previously mentioned, no incremental debt is being issued for the transaction.

<sup>4</sup> Fitch Ratings, CenturyTel Inc., March 6, 2009.

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### Goodwill

Partially as a result of previous transactions,<sup>5</sup> CenturyTel, Inc. currently has \$4.01 billion of goodwill on its balance sheet. In an acquisition, goodwill is recognized as the excess of the cost of an acquired entity over the net of the amounts assigned to identifiable assets acquired (including identifiable intangibles) and liabilities assumed.<sup>6</sup> Based on the pro forma financial statements contained in the Form S-4 (Joint Proxy Statement) filed with the SEC, the estimated post-merger goodwill that will be carried on CenturyTel's balance sheet is approximately \$7.874 billion.

The potential problem with a large amount of goodwill on a company's books is that goodwill can not be amortized over a given period if time. According to Generally Accepted Accounting Principles (GAAP), goodwill must be tested for impairment on an annual basis. Impairment occurs when the fair value of a long-term asset group is less than the book value. If goodwill is impaired, its carrying amount is reduced and an impairment loss is recognized on a company's income statement. As a result, impairment losses could potentially create earnings volatility with no cash flow effects and signal a loss in economic value of the company.

Both Embarq and CenturyTel's 2008 annual evaluation of goodwill resulted in conclusions that goodwill was not impaired. As disclosed to the SEC, CenturyTel, Inc. does not anticipate any impairment to its goodwill. According to CenturyTel, Inc., if goodwill was substantially impaired, the impairment loss would be a non-cash charge to earnings and would not, by itself, necessitate the issuance of debt or other financing for the impairment loss. Additionally, according to the Applicants, there are no existing debt covenants or restrictions that would be affected by impairment of goodwill.

### Financial Reporting

To ensure that Staff can continue to monitor the Operating Companies' financial statements in the same method as currently being reviewed, Ordering condition 4d requires that the Applicants' financial reporting remain unchanged, specifically, two Form-Os for the CenturyTel, Inc.'s ILECs, one Form-O for Embarq ILEC, one Form-I for the CenturyTel, Inc. ILECs, and one Form-I for Embarq ILEC.

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<sup>5</sup> CenturyTel, Inc.'s acquisition of Madison River in 2007 resulted in approximately \$580 million of goodwill. CenturyTel, Inc.'s acquisition of assets of KMC Telecom in 2005 and 2002 resulted in approximately \$30 million of goodwill. CenturyTel, Inc.'s acquisition of assets from Digital Teleport (LightCore) in 2003 resulted in approximately \$11 million of goodwill.

<sup>6</sup> GAAP 2005, *Interpretation and Application of Generally Accepted Accounting Principles*, Wiley, page 367.

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Financial and Ring-fencing Ordering Conditions

As stated by the Applicants, the shareholders of the Applicants consist in large part of sophisticated institutional investors who are well qualified to independently evaluate the financial strength and other attributes of the combined entity. Although this may be true, customers should not have to rely on shareholder analysis of financial strength. In order to hold customers harmless in the transaction, Staff recommends the following Ordering conditions concerning financial actions.

Ordering condition 4j - For the period of three years after the merger, the Operating Companies will limit payments of dividends on common equity distributed to any company (including affiliates and subsidiaries of CenturyTel) holding shares of the Operating Companies in any year to an amount not more than 50 percent of net income in any prior fiscal year. The Operating Companies will limit payment of dividends on common equity in any quarter to not more than one-fourth of the annual limitation amount. This condition is subject to a test as stated in Ordering condition 4j(i):

j(i) The average market value of CenturyTel's common equity is less than 50 percent of the book value of CenturyTel's net debt. The average market value of CenturyTel's common equity will be calculated using the average stock price and the average number of fully diluted shares outstanding during the preceding 120 calendar days. As used in this section, "net debt" means total long-term debt less cash. This test will be calculated prior to the determination of each declaration of dividend, whether quarterly, special, or other.

Ordering condition 4k - Neither CenturyTel nor the Operating Companies will pledge the assets of the Operating Companies to secure any borrowing undertaken by CenturyTel (including affiliates and subsidiaries other than the operating companies) without approval of the Commission.

Ordering condition 4l - The acquisition premium paid by CenturyTel, Inc. for Embarq Corporation will be excluded from the utility accounts of the Operating Companies. Further CenturyTel commits that it will not propose to recover the acquisition premium in Oregon retail and access rates.

Ordering condition 4m - For the period of five years after the merger, CenturyTel will notify the Commission if goodwill impairment (book value less than fair value) exceeds 20 percent in any annual testing year.

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Service Quality

In docket UM 1369, Staff concluded that CenturyTel, Inc. met or exceeded the service quality objectives within the study period from February 2007 to January 2008 as required by OAR 860-023-0055(16)(d).

CenturyTel, Inc. achieved the objective service levels in OAR 860-023-0055(4)-(7):

- OAR 860-023-0055(4) - Provisioning, Held Orders and Held Orders over 30 days, Due to Lack of Facilities;
- OAR 860-023-0055(5) - Trouble Reports;
- OAR 860-023-0055(6) - Repair Clearing Time; and
- OAR 860-023-0055(7) - Blocked Calls.

Commission Order No. 08-205 granted CenturyTel, Inc.'s petition for exemption from submitting monthly service quality reporting requirements, but reserved the right to revoke the exemption should a Staff investigation reveal poor CenturyTel, Inc. network performance. To date, there has not been cause to initiate a Staff investigation.

Embarq does not currently have an exemption from monthly service quality reporting requirements. Ordering condition 4n requires that service quality reporting content and frequency will remain unchanged.

Staff also examined 2007 and 2008 consumer complaints (jurisdictional) as a percentage of access lines for CenturyTel, Inc. and Embarq. The following table highlights the small percentages of complaints for both companies.

Company	2007	2008
CenturyTel	0.12%	0.14%
Embarq	0.11%	0.08%

As the above table indicates, customer complaints (jurisdictional) are low for both companies.

Affiliated Interest Issues

There are currently two affiliated interest orders in effect for CenturyTel of Eastern Oregon, Inc. (UI 184 and UI 186), two affiliated interest orders for CenturyTel of Oregon, Inc. (UI 185 and UI 187) and three joint affiliated interest orders for CenturyTel of Eastern Oregon, Inc. and CenturyTel of Oregon, Inc. (UI 229, UI 230, and UI 239). The following table highlights 2007 and 2008 payments for services received and services provided in 2007 and 2008.

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	CenturyTel of Oregon	CenturyTel of Eastern Oregon	Total
2007 Services Received	\$5,936,026	\$8,865,118	\$14,801,144
2007 Services Provided	\$573,002	\$413,508	\$986,510
2007 Services Received	\$5,584,629	\$8,368,084	\$13,952,713
2007 Services Provided	\$569,183	\$434,122	\$1,003,305

In addition, there are three affiliated interest orders (UI 251, UI 252, and UI 275) in effect for Embarq. The following table highlights 2007 and 2008 payments for services received and services provided in 2007 and 2008.

	Embarq
2007 Services Received	\$17,650,137
2007 Services Provided	\$814,089
2007 Services Received	\$15,687,668
2007 Services Provided	\$724,782

The Applicants do not anticipate any changes in the type of affiliated services provided as a result of the merger.<sup>7</sup> Ordering conditions 4o and 4p address affiliated interest concerns.

It is important to note, that when approving affiliated interest contracts, the Commission does not need to determine the reasonableness of all the financial aspects of the contract for ratemaking purposes. The Commission can reserve that issue for a subsequent proceeding. The subsequent proceeding in this case would be an Operating Companies' general rate filing.

#### Competitive Provider Certificated Affiliates

The Applicants currently have a number of Competitive Provider affiliates certificated by the Commission to operate within Oregon. The Applicants do not anticipate any changes in Competitive Provider affiliates as a result of the merger. Ordering condition 4q addresses Competitive Provider concerns.

<sup>7</sup> Embarq Corporation will still be the parent of UTNW and will continue to initially provide management services to UTNW.

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Actions by Other Regulatory Actions

As a result of being under certain regulatory requirements by federal and state agencies, the Applicants were required to file for approval in numerous jurisdictions. Of the 33 states the new combined entity will operate in, 18 do not require state approval. The following table summarizes the status of jurisdictional approvals.

Regulatory Agency	Date Approval Received	Current Status if Approval is Pending	Scheduled Hearing Date (if applicable)
<b>Federal</b>			
FCC		Pending	Not applicable
Federal Trade Commission/Department of Justice	November 21, 2008 <sup>8</sup>	Antitrust review completed	Not applicable
<b>State</b>			
California		Pending	Not applicable
Florida	Preliminary Approval on February 10, 2009	Consummating final order expected by 3/26/09 after expiration of protest period.	Not applicable
Illinois		Pending	February 4, 2009
Georgia	February 3, 2009	Approved	Not applicable
Louisiana		Pending	Not applicable
Minnesota	February 18, 2009	Approved	Not applicable
Mississippi	February 3, 2009	Approved	Not applicable
Nebraska	February 24, 2009	Approved	February 10, 2009
Nevada		Pending	March 25-26, 2009
Ohio	February 25, 2009	Approved	Not applicable
Pennsylvania		Pending	March 3, 2009
Tennessee		Pending	Week of April 13, 2009 - proposed
Virginia		Pending	March 17, 2009
Washington		Pending	April 15-16, 2009

Comments from Parties

Although the Administrative Law Judge gave Parties until March 17, 2009, to submit opening briefs, no briefs were received. Further discussions concerning the docket will

<sup>8</sup> The merger transaction was subject to antitrust review by the Federal Trade Commission (FTC) and the Department of Justice under the Hart-Scott-Rodino Act. CenturyTel and Embarq made their initial pre-merger submission on November 10, 2008, and were notified by the FTC Premerger Notification office on November 21, 2008, that the statutory 30-day waiting period was being terminated early and without further review.

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occur at the March 20, 2009, Settlement Conference. Although, the date of the settlement conference is past the routing date of this memo, Staff will be able to discuss at the public meeting, any agreements that change the conditions listed in this memo.

Although all Parties agreed to attempt to reach resolution of this docket by the March 24, 2009, Public Meeting, the Parties realized that a Hearing may be required to allow for additional analysis and comments on the docket.

**PROPOSED COMMISSION MOTION:**

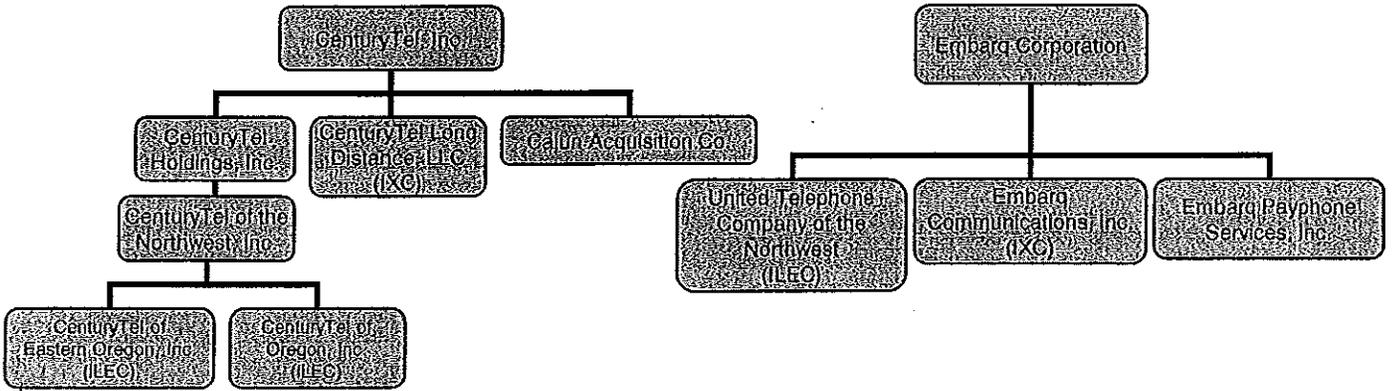
Pursuant to ORS 759.375, ORS 759.380, and OAR 860-027-0025, the Commission should approve the merger of Embarq and CenturyTel Inc., the parent companies of United Telephone Company of the Northwest dba Embarq, CenturyTel of Oregon, Inc., and CenturyTel of Eastern Oregon, Inc. subject to the recommended conditions.

However, if the Commission believes additional time is required for review of this docket, Staff recommends that Commission direct a Hearings schedule be adopted to allow for a Commission order no later than June 30, 2009.

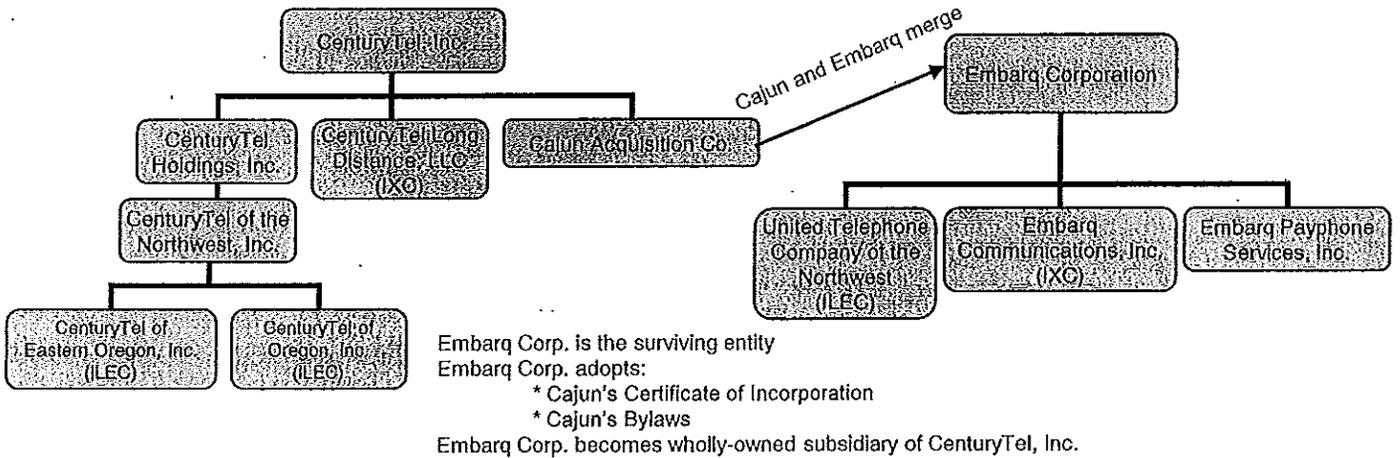
PMM UM 1416

**OREGON**  
Organizational Structure Diagrams

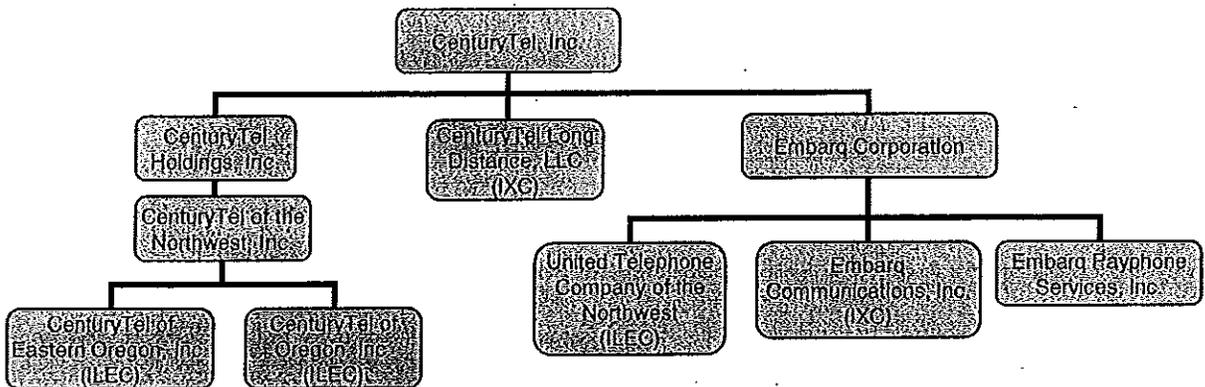
**Pre-Merger**



**Merger**



**Post-Merger**



\* 8 Directors from Pre-Merger CenturyTel, Inc.  
\* 7 Directors from Pre-Merger Embarq Corp.

## FINAL PROPOSED CONDITIONS

1. CenturyTel shall provide the Commission access to all books of account, as well as, all documents, data, and records that pertain to the merger of the two companies.
2. The Commission reserves the right to review, for reasonableness, all financial aspects of this transaction in any rate proceeding or earnings review under an alternative form of regulation.
3. The Applicants shall immediately notify the Commission of any substantive changes to the merger terms and conditions from those set forth in their application that: (1) are planned to, or in fact do occur while a Commission order approving the merger is pending, or (2) occur before the merger is closed, but after the Commission issues its order approving the merger. The Applicants must also submit a supplemental application for an amended Commission order in this docket if the merger conditions and terms change as set forth in this condition.
4. CenturyTel shall commit to the following and submit any necessary filings to effect such changes at the appropriate time:
  - a. Post-Merger, CenturyTel will maintain an organizational structure that includes the three regulated ILECs in Oregon (no change from current certification) - United Telephone Company of the Northwest (UTNW) dba Embarq, CenturyTel of Oregon, Inc., and CenturyTel of Eastern Oregon, Inc., both dba CenturyTel (Operating Companies). Any change in certification will require the proper Commission filings.
  - b. The merger will be transparent to the Operating Companies' Oregon regulated retail customers. Immediately after the merger, the carrier name on all applicable retail customer bills will remain unchanged.
  - c. The Company will keep Staff apprised of organizational structure changes as they occur.
  - d. No changes will be made by CenturyTel or its Operating Companies to any rate, rule or regulation currently included in the Operating Companies' access tariff, retail tariff or any retail price list without properly filing a rate application.
  - e. If an Operating Company files a general rate proceeding in Oregon, it will file based upon its own individual regulated telecommunications utility rate base, earnings requirement, rates, etc.

- f. An Operating Company will not advocate in any general rate case proceeding for a higher cost of capital as compared to its cost of capital would have been, using appropriate financial analysis absent the merger.
- g. CenturyTel will not seek recovery of one-time merger, branding or transaction costs in Oregon intrastate regulated rate proceedings.
- h. All existing agreements with other carriers and customers will continue in force and will be honored by the Company.
- i. Under the current operating structure, financial reporting will remain unchanged, i.e., two Form-Os for the CenturyTel, Inc. ILECs, one Form-O for the Embarq ILEC, one Form-I for the CenturyTel, Inc. ILECs, and one Form-I for the Embarq ILEC.
- j. At any time when the condition in subsection 4j(i) exists, the Operating Companies of the merged company will limit payments of dividends on common equity distributed to any company (including affiliates and subsidiaries of Century Tel) holding shares of the operating companies in any year to an amount not more than 50% of net income in the preceding fiscal year. The Operating Companies will limit payment of dividends on common equity in any quarter, if dividends are distributed quarterly, to not more than one-fourth of the annual limitation amount.
  - (i) The average market value of CenturyTel's common equity is less than 50 percent of the book value of CenturyTel's net debt. The average market value of CenturyTel's common equity will be calculated using the average stock price and the average number of fully-diluted shares outstanding during the preceding 120 calendar days. As used in this section, "net debt" means total long-term debt less cash. This test will be calculated prior to the determination of each declaration of dividend, whether quarterly, special, or other.
- k. Neither CenturyTel nor the Operating Companies of the merged company will pledge the assets of the Operating Companies to secure any borrowing undertaken by CenturyTel (including affiliates and subsidiaries other than the operating companies) without approval of the Commission.
- l. The acquisition premium paid by CenturyTel Inc. for Embarq Corporation will be excluded from the utility accounts of the operating companies. Further, CenturyTel commits that it will not propose to recover the acquisition premium in Oregon intrastate regulated retail and access rates.
- m. CenturyTel will notify the Commission if goodwill impairment (fair value less than book value) exceeds 20 percent in any annual testing year.

- n. Service Quality reporting for the Operating Companies, both content and frequency, will remain unchanged. However, pursuant to Commission Order No. 08-205, the Commission continues to reserve the right to revoke CenturyTel's current reporting exemption should a Staff investigation reveal poor CenturyTel network performance.
- o. CenturyTel will hold customers harmless for increases in management costs incurred by the operating companies that result from the merger.
- p. The Operating Companies will comply with all applicable Commission statutes and regulations regarding affiliated interest transactions, including timely filings of applications and reports. To the extent affiliated interest changes do occur, the Company will make the appropriate affiliated interest filings pursuant to ORS 759.390.
- q. The certificates of all CenturyTel entities certified as Competitive Providers in Oregon will remain in effect and unchanged as of the date the merger is effective. Thereafter, CenturyTel will report any changes affecting those certificates in compliance with applicable Commission statutes and regulations.
- r. The Conditions may be expanded or modified as a result of regulatory decisions in other states, including decisions based upon settlements, that impose conditions or commitments related to this merger proposal. CenturyTel agrees that the Commission may adopt any commitments or conditions from other states that are adopted after the final order in UM 1416 is issued that are related to addressing harms of this transaction if:
1. The commitment or condition does not result in the combined company being required to provide a "net benefit" and either
    - a. The Commission or Staff had not previously identified the harm to Oregon ratepayers; or
    - b. The commitments or conditions in a final order of another state are more effective at preventing a harm previously identified by the Commission or Staff.

Should new commitments or conditions meeting the requirements of subsections 1a or 1b of this paragraph occur, CenturyTel will commit to the following process to facilitate a prompt decision from the Commission under this section:

- Within fifteen (15) calendar days after a final order adopting a new condition or stipulation with new or amended commitments by a commission in another state jurisdiction, CenturyTel and Embarq Corporation will send a copy of the stipulation and commitment to Oregon Commission staff and to all parties in UM 1416.

- CenturyTel and Embarq will notify the Commission that they have received the last such final order from other states adopting new conditions, stipulations or commitments (the “Final Filing”) within fifteen (15) calendar days of receipt and send it to Staff and all UM 1416 parties.
  - Within ten calendar days after the last such filing from the other states (“Final Filing”), any party to this proceeding may file with the Commission its response, including its position as to whether any of the covenants, commitments and conditions from the other jurisdictions (without modification of the language thereof except such non-substantive changes as are necessary to make the commitment or condition applicable to Oregon), meets the three requirements set forth above, and should be adopted in Oregon. Any party filing such a response should serve it upon the UM 1416 parties.
  - Within five calendar days after any such response filing, the Applicants may file a reply with the Commission. If the 5th calendar day falls on Saturday, Sunday, or a holiday, the next business day will be considered as the 5th day. The Applicants shall serve any such reply upon the UM 1416 parties.
- s. CenturyTel may seek a waiver of Conditions (f), (g), (m), (o), and (j) such that any or all of these conditions are no longer in force subsequent to five years from the date of this order.
- t. Beginning with the first of the month following twelve months after close of the transaction, and for three subsequent twelve-month periods, CenturyTel shall file with this commission a report describing:
1. substantive activities undertaken relating to integrating CenturyTel operations with Embarq, as well as achieving synergies made available as a result of this transaction;
  2. costs and projected savings of each such respective activity;
  3. organizational and staff force changes in Oregon operations; and,
  4. impacts on Oregon operations and customers.
- This reporting requirement shall end with the submission of the fourth report unless otherwise directed by the Commission.